

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JAMES RUSSELL ROGERS,
Plaintiff,

No. 1:09-cv-06198-CL

v.

FRANK THOMPSON, et al.,
Defendants.

ORDER

PANNER, District Judge:

Magistrate Judge Mark D. Clarke filed a Report and Recommendation, and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). When either party objects to any portion of a Magistrate Judge's Report and Recommendation, the district court makes a de novo determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1)(C); McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F. 2d 1309, 1313 (9th Cir. 1981).

Here, plaintiff objects to the Report and Recommendation, so

I have reviewed this matter de novo. I agree with Magistrate Judge Clarke's conclusion that plaintiff failed to exhaust administrative remedies for his claims. Accordingly, I ADOPT the Report and Recommendation of Magistrate Judge Clarke.

CONCLUSION

Magistrate Judge Clarke's Report and Recommendation (#53) is adopted. Defendants' motion to dismiss (#43) is granted and plaintiff's first amended complaint (#5) is dismissed without prejudice. Plaintiff's motion for appointment of counsel (#70) is denied.

IT IS SO ORDERED.

DATED this 16 day of December, 2011.

A handwritten signature in black ink, reading "Owen M. Panner", is written over a horizontal line.

OWEN M. PANNER
U.S. DISTRICT JUDGE